

logical and agricultural survey of the State with amendments.

The joint resolution in response to the Governor's message on Kansas affairs, being the special order for this, was read.

Mr. Paschal offered the following as a substitute :

WHEREAS, There exists a determined opposition to the admission of Kansas into the Union, because of the slavery clause of the constitution of that State ; and whereas, the refusal on the part of Congress to admit any State into the Union, because the people have engrafted on their constitution the principle of slavery, or no slavery, would be a violation of the principle of non-intervention, a wanton aggression upon the rights of the sovereign States, and particularly upon the rights of the Southern slaveholding States ; therefore,

1st. *Be it Resolved by the Legislature of the State of Texas,* That the refusal of Congress to admit Kansas into the Union, because of the slavery clause in her constitution, would be regarded by Texas as a wanton aggression upon the rights of the slaveholding States ; and Texas here pledges herself to co-operate with her sister States of the South in the adoption of such measures as may be calculated to arrest this mad spirit of sectional violence and fanaticism, and to secure to each State equal rights and equal justice.

2d. That the Governor be and he is hereby requested to forward a copy of the foregoing resolution to each of our Senators and Representatives in Congress. Rejected.

On motion of Mr. Trockmorton, the joint resolution was made the special order for to-morrow night at 7 o'clock ; and

The Senate adjourned until to-morrow morning at 10 o'clock.

TUESDAY, February 9th, 1858.

The Senate met pursuant to adjournment—Prayer by the Chaplain—roll called, quorum present.

The Journal of yesterday was read and adopted.

Mr. Stockdale made the following report :

The committee on the Judiciary have considered the substitute of the House for the Senate bill entitled, a bill supplemental to and amendatory of an act to establish a Code of Criminal Procedure, approved, August 26, 1856, together

with the Senate bill, and a majority of the committee instruct me to report the same back to the Senate, and the substitute being in the nature of amendments to the Senate bill, the committee recommend that the Senate concur in the same. The committee have carefully examined the substitute, and find some features which are not acceptable; but as the session is nearing a close, and the objectionable features are not very important. The committee deem it best to concur.

On motion of Mr. Guinn, the rule was suspended, bill taken up, read, and passed to a third reading—rule further suspended, bill read a third time and passed.

Mr. Pirkey made the following report:

The committee on Public Lands have considered a bill for the relief of the heirs of Peter M. Mercer. The testimony was not satisfactory. There was however some evidence that he was in the battle of San Jacinto, and the committee, not wishing to do injustice, return the bill to the Senate without prejudice, for its action.

Mr. Russell, from the committee on Roads, Bridges and Ferries, to which was referred a House bill granting to the persons therein named, the privilege of erecting a toll bridge across the Angelina river at or near Buck Shot crossing, &c., have considered the same and instruct me to recommend its passage.

On motion of Mr. Guinn the rule was suspended, bill read second time and passed to a third reading—rule further suspended, bill read a third time and passed by the following vote:

YEAS—Messrs. Britton, Burroughs, Caldwell, Erath, Fall, Grimes, Guinn, Hyde, Lott, Martin, Maverick, Pirkey, Russell, Scarborough, Shepard, Stockdale, Tankersly, Taylor of Fannin, Throckmorton, Truitt, Walker and Whaley—22.

NAYS—None.

Mr. Hyde made the following report:

The committee on Counties and County Boundaries, have considered a bill supplemental to an act to create the county of Chambers, and instruct me to report a bill better to define the boundaries of the county of Chambers, as a substitute, and to recommend its adoption and passage.

On motion of Mr. Pedigo, the rule was suspended, report and bill taken up, read, substitute adopted and bill ordered to be engrossed—rule suspended, bill read a third time and

Mr. Herbert made the following report:

The committee on Roads Bridges and Ferries, have considered a bill to incorporate the Navisota Turnpike and Toll Bridge Company, and instruct me to recommend its passage, with the following amendments.

Add to section 2: *Provided*, said company shall not be permitted under the provisions of this act to obstruct any public road now in existence.

Strike out section 6.

Strike out Hardey before Mitchell and insert Harvey.

In section 9, after Record in line 4, strike out all to, and in line 5.

Mr. Taylor of Fannin made the following report :

The committee on Education have considered a bill to incorporate the Freestone School Association, and instruct me to recommend its passage.

Mr. Burroughs, reported the following bills correctly enrolled properly signed, and this day presented to the Governor.

A bill to reorganize the 16th Judicial District and to define the time of holding courts therein.

A bill to provide for boring Artesian Wells between the Nueces and Rio Grande rivers.

A bill to relinquish to the Galveston Dry Dock Company, the right of the State to 25 acres of land on Pelican Flats in Galveston bay.

A bill to allow C. H. Neuman to adopt two illegitimate children.

A bill to amend an act to incorporate the Texas Iron, Steel Copper Manufacturing, Mining and Trading company, passed, September 1st, 1856.

A bill to amend an act to create the county of San Saba.

A bill to amend an act to create the county of Llano.

A bill declaring the true intent and meaning of the eighth section of an act passed August 1st, 1856, to encourage the navigation of the rivers and other navigable waters of Texas.

A bill to repeal an act to regulate mustang chases west of San Antonio river ; and

A bill to authorize the Commissioner of Claims to issue certain land certificates therein named.

Mr. Russell Chairman of the committee on Engrossed Bills, made the following report :

The committee on Engrossed Bills have examined and find correctly engrossed the following bills :

A bill for the relief of Lewis David.

A bill supplemental to an act to incorporate the Sabine and Rio Grande Railroad Company, approved February 6th, 1853.

A bill for the relief of John W. Hayden; and

A joint resolution relative to the arrest of Gen. William Walker, by Com. Paulding.

Mr. Martin offered the following resolution, which was adopted :

Resolved, That in consequence of the unavoidable absence of the Hon. Henry C. Pedigo from the Senate at the commencement of the present session, his per diem pay shall be allowed from the commencement of the present session of the Legislature.

On motion of Mr. Pedigo, the joint resolution authorizing Wm. M. Spaulding to bring suit in the District Court of Liberty county, against the State of Texas, was taken up and read, and on motion of Mr. Britton laid on the table.

On motion of Mr. Russell, the bill to provide for the assessment and collection of taxes, was taken up and made the special order for to-morrow.

Mr. Wigfall moved to take up the joint resolution for the appointment of a State Librarian. Lost.

Mr. Paschal moved to take up the bill for the relief of Ann M. Bradley. Lost.

A message was received from the House informing the Senate that the House had passed a Senate bill to extend the provisions of an act to restore lands sold for taxes and purchased by the State to the former owners, on certain conditions : and a Senate bill to incorporate the San Antonio Cotton and Woolen Manufacturing Company.

And also the following House bills :

A bill to be entitled an act to prohibit the sale of spirituous or vinous liquors to an Indian of the territory bordering on the State of Texas.

And also a joint resolution to change the constitution.

A message was received from the Governor transmitting the following communications :

EXECUTIVE OFFICE, }
FEBRUARY, 9th, 1853. }

Gentlemen of the Senate

and House of Representatives :

I herewith return for your consideration an act to incorporate the Columbus, San Antonio and Rio Grande Railway Company.

On an examination of the bill, I find it obnoxious to most of the objections, which have been with so much propriety urged against the reckless and indiscriminate course of past legislation on this subject.

The 1st and second sections of the bill invest the corporators named therein with full power over the franchise. The 1st section creates and establishes them a body corporate and politic; with the right to make by-laws for the permanent regulation of the company—to sue and be sued, to do and perform all other acts necessary and incident to the maintenance of their right under the incorporation. The 2d declares that the said company be and are hereby invested with the rights of locating, constructing, owning and maintaining a railway, &c. I have been unable to discover in any subsequent provision such a modification of the terms of these sections as to justify a belief contrary to that above expressed, in regard to the right of ownership in the franchise.

It is true that the 14th section requires that \$200,000 of the stock shall be subscribed, and five per cent. paid into the hands of the Commissioners before the commencement of operations. That, however, is no sufficient security against the abuse of the privileges conferred by the bill. Because there is no provision contained in it requiring the Commissioners to open the books for subscriptions, and consequently nothing to prohibit the parties named in the act, and such as they may associate with themselves from appropriating the whole amount of this stock to their own private uses, thereby constituting themselves the company, and alleging with plausibility, that the stock provision has been fully complied with.

I find no restraint thrown around the action or management of the company. The 6th section fully warrants a repetition of that reprehensible and illicit practice of stock gambling, worse than banking, which from the notorious abuses that have grown out of it, the injury and discredit which it has already reflected, should in my judgment never again be authorized or tolerated. Such is the only inference to be drawn from the following words of the section: "That the directors shall have power to dispose of the shares in said capital stock, in such manner and on such terms as they may deem best for the interest of the company." The evident and only meaning to be inferred from the language, is to give the directory power to sell and dispose of the stock at a discount. So the power is unlimited. They may dispose of it

at five cents or fifty cents on the dollar, at their own option, and there will be nothing to restrain them, when once possessed of the charter. Connected with the same objections, the fact is to be noticed that there is no prohibition of the sale of the charter, and although it is not supposed there exists any such intention, in the present instance, it will be a precedent likely to exert an improper influence at another time, and liable to the greatest abuse. The stock subscription with which the work is authorized to be commenced, is not sufficiently large to insure the progress and advancement of the enterprise, or to afford the State any warrantee of a successful prosecution, which should in every instance be demanded.

It will be seen from the 12th section of the bill that the said railway shall be commenced within three years from and after the time when the road of the Buffalo Bayou, Brazos and Colorado Railway Company reaches a point opposite the town of Columbus. When this will be done it is not for me to determine, but from the delay granted after the time specified for the commencement, it is not to be presumed that action on this measure is of any great importance at this time. The public has gained nothing by ill-timed and unnecessary legislation on the all-important subject of internal improvement, in the past, and there is no promise of a different result in the future.

The only useful object to be attained in obtaining a charter so far in advance of connection, should be the preliminary preparation of the road, preparatory to an early completion, when the necessary connection is obtained.

For these reasons I have come to the conclusion that it is not only unnecessary, but impolitic, to grant the charter, and therefore cannot give it my approval.

[Signed]

H. R. RUNNELS,

On motion of Mr. Pedigo, the message was laid on the table.

EXECUTIVE OFFICE, }
FEBRUARY 9th, 1858. }

Gentlemen of the Senate

and House of Representatives :

I return without my approval "an Act for the relief of the heirs of John B. Webb." The augmentation asked for is the difference between one-fourth and one-third of a league of land. The facts before me go to prove that this augmenta-

tion was rejected by the Traveling Board, in which case the only redress of the claimant was before the District Court.

The second section of Article 11 of the constitution declares "that the District Court shall be opened until the 1st day of July, 1847," for the establishment of this class of claims, "and that all claims not established or sued upon, prior to that date, shall be forever barred."

[Signed] H. R. RUNNELS,

On motion of Mr. Britton, the message was laid on the table.

ORDERS OF THE DAY.

A Senate bill to provide for a geological and agricultural survey of the State, with amendments from the House ; read and amendments concurred in.

Report of the Joint Select Committee to examine and report the number of employees in the different Government offices ; read, and on motion of Mr. Guinn laid on the table.

House bill for the relief of Elizabeth Rice, read and passed to a third reading.

A bill for the relief of J. B. and D. R. Wooltham, originating in the House ; read, and on motion of Mr. Russell, referred to the committee on Private Land Claims.

On motion of Mr. Throckmorton, the following House bills were severally taken up, read first and second times, and referred as stated :

A bill to amend the 15th section of an act to organize the District Courts, and to define their powers and jurisdiction, approved May 11th, 1846—to the committee on the Judiciary.

Joint resolution to change the constitution—to the committee on the Judiciary.

A bill to be entitled an act authorizing the County Court of Shelby county to levy and collect a special tax—to the committee on the Judiciary.

A joint resolution proposing an amendment to the State constitution—to the committee on the Judiciary.

A House bill authorizing Jas. H. Matthews to construct a dam across the Colorado river ; read first time.

On motion of Mr. Caldwell, the rule was suspended, bill read a second time and passed to a third reading

Rule further suspended, bill read a third time and passed

A House bill to require the Commissioner of the General

Land Office to make out transcripts of field notes of surveys heretofore made in Milam and Bexar Land Districts, which have been returned to his office, and which surveys are now included in Young Land District, together with sketch maps of said surveys read first time.

On motion of Mr. Throckmorton, the rule was suspended, bill read second time and passed to a third reading.

Rule further suspended, bill read a third time and passed.

A bill to authorize the county court of Webb county to levy a special tax ; read first time.

On motion of Mr. Britton, the rule was suspended, bill read a second time and passed to a third reading.

Rule further suspended, bill read a third time and passed.

A bill to provide for making legal and valid the transcripts of records of surveys and maps taken from Cooke and Denton Land Districts, and now included in Young county Land District ; read first time.

On motion of Mr. Throckmorton, the rule was suspended, bill read second time and passed to a third reading.

Rule further suspended, bill read a third time and passed.

A bill to authorize the County Court of Gonzales county to levy an additional tax for the purpose of completing a courthouse ; read first time.

On motion of Mr. McCulloch, the rule was suspended, and bill read second time.

Mr. Erath offered the following amendments, which were adopted :

Amend caption by inserting " the county of Bell," add the following as an additional section :

"That if two-thirds of the legal voters of Bell county shall desire the levying of an additional tax in said county, the County Court thereof may levy and have collected an additional tax, provided the same does not exceed the State tax, which said additional tax shall be exclusively appropriated to the building of a courthouse.

The bill was then passed to a third reading.

Rule further suspended, bill read a third time and passed.

On motion of Mr. Russell, the Senate adjourned until 7 o'clock P. M.

7 O'CLOCK, P. M.

The Senate met, roll called—quorum present.

Mr. Pirkey moved a reconsideration of the vote passing a bill to authorize the issuance of patents upon unconditional certificates.

On motion of Mr. Guinn, the motion was laid on the table.

Mr. McCulloch tendered the resignation of Wm. A. Pitts, Sergeant-at-Arms of the Senate, which, on motion of Mr. McCulloch, was accepted.

Mr. Erath introduced, by leave, a bill for the relief of F. W. Johnson ; read first time.

On motion of Mr. Guinn, the rule was suspended, bill read a second time and ordered to be engrossed.

Rule further suspended, bill read a third time and passed.

Mr. Burroughs, from the committee on Enrolled Bills, reported the following bills correctly enrolled, properly signed and this day presented to the Governor :

A bill for the relief of Wm. H. Jones.

A bill making the receipts of the Comptroller, for taxes, valid in certain cases.

A bill to establish the University of Texas ; and

A bill to extend the provisions of an act to restore lands sold for taxes and purchased by the State, on certain conditions, approved February 5th, 1856.

Mr. Wigfall, by leave, introduced a bill to increase the pay of District Attorneys ; read first time.

On motion of Mr. Wigfall, the rule was suspended and bill read a second time.

Upon the engrossment of the bill the yeas and nays were as follows :

YEAS—Messrs. Graham, Martin, Maverick, Pirkey, Scarborough, Shepard, Stockdale, Throckmorton, Truitt and Wigfall—10.

NAYS—Messrs. Burroughs, Caldwell, Erath, Fall, Grimes, Guinn, Herbert, Hyde, Lott, McCulloch, Paschal, Russell, Taylor, of Fannin, and Whaley—14.

So the Senate refused to engross the bill.

Mr. Burroughs moved a reconsideration of the vote just taken. Carried, by the following vote :

YEAS—Messrs. Burroughs, Graham, Hyde, Martin, Ma-

verick, Pirkey, Pedigo, Scarborough, Shepard, Stockdale, Throckmorton, Truitt and Wigfall—13.

NAYS—Messrs. Caldwell, Erath, Fall, Grimes, Guinn, Lott, McCulloch, Paschal, Russell, Taylor, of Fannin, and Whaley—11.

Mr. Burroughs moved to amend the bill by striking out "five hundred dollars" and inserting "two hundred and fifty dollars" in lieu thereof.

Mr. McCulloch called for a division of the question.

And the motion to strike out prevailed.

The blank was then ordered to be filled, by the following vote, with "two hundred and fifty dollars :"

YEAS—Messrs. Burroughs, Graham, Hyde, Martin, Maverick, Pedigo, Pirkey, Scarborough, Shepard, Stockdale, Throckmorton, Truitt, and Wigfall—13.

NAYS.—Messrs. Caldwell, Erath, Fall, Grimes, Guinn, Lott, McCulloch, Paschal, Russell, Taylor of Fannin, and Whaley—11.

Mr. Russell moved a call of the Senate. Carried.

Absent : Messrs. Britton, Tankersly and Walker.

On motion of Mr. Wigfall, the bill was laid on the table.

On motion of Mr. Russell the joint resolution authorizing Wm. M. Spalding to bring suit against the State in the District Court of Liberty county, was taken up, read and referred to a select committee.

Messrs. Russell, Maverick, Graham, Burroughs, and Taylor of Fannin, were appointed the committee.

The joint resolution in response to the Governor's message on Kansas affairs—special order for to-night—was taken up and read.

Mr. Throckmorton moved to refer the joint resolutions to the committee on State Affairs. Lost.

Mr. Throckmorton, moved to strike out the 1st section.

Mr. Guinn moved to lay that motion on the table.

Upon which the yeas and nays were as follows :

YEAS—Messrs. Erath, Graham, Hyde, Guinn, Lott, McCulloch, Martin, Pirkey, Russell, Scarborough, Shepard, Stockdale, Whaley and Wigfall—14.

NAYS—Messrs. Burroughs, Caldwell, Fall, Grimes, Herbert, Maverick, Paschal, Pedigo, Tankersly, Taylor of Fannin, Throckmorton and Truitt—12.

So the motion was laid on the table.

Mr. Taylor of Fannin offered the following as a substitute for the joint resolutions.

JOINT RESOLUTION RELATING TO THE ADMISSION OF KANSAS
INTO THE UNION.

1. *Be it Resolved by the Legislature of the State of Texas,* That we recognize the right of the people of all the Territories, including Kansas, acting through the legally and fairly expressed will of the majority of actual residents, and whenever the number of their inhabitants justifies it, to form a constitution, with or without domestic slavery, and to be admitted into the Union upon terms of equity with the other States.

2 That should Kansas present herself for admission into the Union, having conformed to the provisions of the organic act, organizing said Territory, that it is the duty of Congress to admit Kansas into the Union upon an equal footing with the original States.

On motion of Mr. Wigfall, the resolutions and substitute were referred to the committee on State Affairs ; and

The Senate adjourned until 10 o'clock to-morrow morning.

WEDNESDAY, February 10th, 1858.

The Senate met pursuant to adjournment—prayer by the Chaplain—roll called—quorum present—the Journal of yesterday was read and adopted.

A message was received from the House informing the Senate that the House had passed the following bills originating in the House :

A bill to amend an act to incorporate the Brownsville and Rio Grande Railroad Company, and

A bill to create the county of Blanco, and adjust the boundaries of the counties affected thereby ; and the following bills originating in the Senate :

A bill to incorporate the Opelousas and Texas Western Railroad Company, and

A bill to amend an act to incorporate the Memphis, El Paso and Pacific Railroad Company, and the act supplemental thereto ; and

A Senate bill supplemental to the charter of the Aransas Road Company, with an amendment ; and